

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (ST) NO.12137 OF 2006
WITH
CIVIL APPLICATION NO.3786 OF 2009
IN
FIRST APPEAL (ST) NO.12137 OF 2006**

The State of Maharashtra & Anr. ..Appellants/Applicants
V/s.

Gowardhan Maruti Aaglave ..Respondent

Mr.Ameet A. Palkar, AGP for the Appellants/Applicants.

Mr.Umesh Kurnal for the Respondent.

CORAM : M. S. SONAK, J.

DATE : 31 JANUARY 2017.

P.C.

1. This appeal relates to the year 2006. The challenge in this appeal is to the impugned award dated 27-09-2005 made by the Reference Court enhancing compensation. As a result of the enhancement, the respondent-claimant, has been awarded additional compensation of only Rs.25,353/-, which, after addition of statutory benefits like interest and solatium comes to Rs.40,058/-

2. The impugned award makes reference to the award in

LAR No.692 of 2002 and orders enhancement on the said basis. At this stage, neither the learned Additional Government Advocate nor the learned counsel who appears for the respondent are in a position to make any statement as to whether any appeal was preferred by the State Government questioning the award in LAR No.692/2002.

3. However, the learned counsel for respondent-claimant has placed reliance upon a decision of this Court dated 23 March 2010 in First Appeal No.1512 of 2009. Incidentally, the said decision also pertains to the acquisition for the purposes of minimum project Pimpalgaon Dhale, Taluka-Barshi, with which, we are concerned in the present appeal. At paragraph No.3 in First Appeal No.1512 of 2009, this Court has observed thus :-

“3. Heard learned Additional Government Pleader for the Appellants. On perusal of the impugned order, it is seen that the enhancement of compensation is based on the decision of the Reference Court in L.A.R. No.666 of 2002 dated 29 July 2005. It is not in dispute that the lands in question in L.A.R. No.666 of 2002 and the lands in question in the present appeal are in the same vicinity. It is an admitted fact that the land in question in L.A.R.No.666 of 2002 were also acquired for the same project. There is nothing on record to show that the Revenue has filed any appeal against the decision in

L.A.R. No.666 of 2002 dated 29th July 2005. In these circumstances, in my view, the decision of the Reference Court in granting enhanced compensation cannot be faulted.”

4. The awards in LAR No.647 of 2002 (Subject matter of First Appeal No.1512 of 2009) and LAR No.662 of 2002 relate to the immediate adjacent village of Tandulwadi. The acquisition in the present appeal relates to the village Bavi. The acquisitions were for one and the same project. On the perusal of the impugned award it appears that the Reference Court has not only considered the material on record but also, applied the principles expounded by the Hon'ble Apex Court as well as this Court. As noted earlier, the enhancement is only to the extent of Rs.40,058/- Appeals in respect of the lands acquired in the immediate adjacent village stand dismissed. There is no clarity as to whether the State Government had preferred any appeal in respect of awarding LAR No.692 of 2002 and whether, such award has been interfered or not.

5. Cumulatively considering of the aforesaid circumstances this appeal is dismissed. There shall be no order as to costs. Interim order, if any, stands vacated.

6. All concerned to act on the basis of the authenticated copy of this order.

7. In view of the dismissal of the appeal, the Civil Application does not survive and the same is disposed of.

(M. S. SONAK, J.)